

Application Nos. ZM-64-02, Hugh A. West; and UP-591-02, Providence Classical School: Request to amend the York County Zoning Map by reclassifying an approximately 1.9-acre parcel located at 116 Palace Lane and further identified as Assessor's Parcel No. 9-11 from conditional LB (Limited Business) to LB. The property owner seeks to delete a condition, voluntarily proffered as part of a conditional rezoning application approved in 1987, that limited the use of the property to a funeral home; and request for a special use permit, contingent upon approval of Application No. ZM-64-02, to authorize the establishment of a private school at 116 Palace Lane. Ms. Olivia Wilkinson presented a summary of the memorandum to the Commission dated December 26, 2001, and noted that the proposed re-use of the property would probably be desirable over many other uses that are permitted in the Limited Business zoning district.

Mr. Beil inquired about the buffer requirement between the subject parcel and the adjacent residential properties. Ms. Wilkinson responded that the Zoning Ordinance typically requires a 35-foot buffer. She explained that the staff had reviewed the subject property's existing fence with an established mature line of trees, and considered this an adequate buffer in combination with staff's recommendation that the playground be located on the opposite side of the building.

Mr. Semmes mentioned that the use permit applicant disagreed with staff's proposed 111-student enrollment cap and wondered if the traffic analysis that this enrollment (111 students) triggered could be undertaken immediately to address the school's request for an enrollment of 150 students. Ms. Wilkinson indicated that the school could complete a traffic analysis at this time. She said that the Zoning Ordinance requirement for a traffic study was explained to the applicant during a pre-application conference and that without such a study an enrollment cap would be recommended.

In response to a question by Mr. Semmes, Ms. Wilkinson clarified that the Zoning Ordinance provides for modifications to the use permit should the school wish to exceed the proposed enrollment cap. She explained that an increase in the enrollment cap would trigger the traffic analysis requirement. She continued that a 5% or less increase in enrollment would require review by the Zoning Administrator and that increases above 5% would require action by the Board of Supervisors.

Discussion followed about a gravel road located along the southern edge of the subject property, including its ownership, whether the County could have it closed off, and how it is presently used. Mr. Carter offered to review the original site plan approval of the office building served by the gravel road to get more details about how the road was to have been finished.

Mr. Ptasznik asked why staff recommended a four-foot fence for the school playground. Ms. Wilkinson commented that this height was consistent with fencing requirements for previously

approved day care center playgrounds. Mr. Ptasznik asked about the height of the existing privacy fence located on the opposite side of the property. Ms. Wilkinson said she thought that it was about six feet. Mr. Ptasznik suggested the required fence heights might not be enough. He also expressed concern about requiring the playground to be placed in the southwest yard area, next to a gravel road that might be paved in the future and might experience an increase in traffic. Ms. Wilkinson noted that, in recommending the playground placement, staff considered potential noise impacts on adjacent properties and residential neighborhoods. In response to Mr. Heavner, Ms. Wilkinson clarified that staff considered the safety concerns associated with the playground location and recommended the fenced enclosure to mitigate these concerns.

Replying to Mr. Heavner about any citizen complaints, Ms. Wilkinson noted that the majority of public comments relayed to staff concerned the possible use of Caran Road for delivering and picking up students. She also indicated that public comments included concerns regarding playground location.

Mr. Simasek said that because of the proffer that currently exists on the property, the County has a great deal of control over that land at this time, requiring careful deliberation by the Commission.

The Chair opened the public hearing.

Mr. Jim Carter, 201 Prince Charles Road, said he represents the owner, Mr. Hugh West, in marketing the property. He said the office building served by the gravel road mentioned earlier is owned by Williamsburg Properties LLC, who is leasing it to Fairfield Timeshare. He said Fairfield was using the rear parking lot without the owner's permission and that the owner has now blocked the rear parking lot to prevent this.

Ms. Rita Stryker, 200 John Tyler Lane, representing Providence Classical School, presented remarks in support of the school's application. (The text of Ms. Stryker's remarks is attached to the minutes.)

Mr. Michael Doucette, 205 West Tazewells Way, Williamsburg, said he is affiliated with the school. He noted that, based on current anticipated tuition and a student population of 25, the school faces an immediate fiscal deficit and is undertaking a fund-raising campaign to close the deficit. The school needs to make building improvements, as well, he added, and it cannot afford a traffic study, which could cost up to \$7,500. Mr. Doucette requested that the County eliminate the requirement for a traffic impact analysis.

Mr. Tom Darnelle, 3724 General Gookin Court, Williamsburg, Pastor of Grace Covenant Presbyterian Church, spoke of the school's commitment to Christian and classical education. He said the school imparts knowledge, data, love for learning, and tools for learning that help to build leaders.

Mr. Mike Kirby, 121 Caran Road, was not opposed to the school but was concerned about traffic it might add to Palace Place and Caran Road. He further noted there is a severe mosquito problem at the end of Caran Road, approximately 500 yards from the school, because of drainage. No one takes responsibility for the drainage and mosquito problem, he added, although numerous calls have been made to County staff.

Ms. Susan Hefner, 111 Caran Road, lives next to the area where the school proposes to place its playground. She stated that her yard is her refuge, and she would like to have assurances that the sound will be well buffered from the playground. Ms. Hefner also suggested placing speed bumps to slow traffic, and to close off Palace Lane.

There were no others to speak; the Chair closed the public hearing.

Mr. Ptasznik inquired if the school is prepared to repair the fence if necessary, and Ms. Stryker said that it is.

Mr. Simasek said that the Commission is charged with recommending responsible land use, but he appreciates the mission of the school. He asked what position the school would take if the County were to approve the use for a maximum enrollment of 111 students. Ms. Stryker said the school would proceed but would prefer not to have to do that because the allowed enrollment would fail to cover the expenses of operating the school.

Mr. Simasek inquired about the school plans for the fourth year. Ms. Stryker said the school would enter a three-year lease with the property owner, Mr. West, and at the end of that lease would decide whether to purchase the property or move. Mr. Simasek noted that if the school were to abandon the property after three years, the County would have less control over its use than it now has.

Responding to Commissioners' questions, Ms. Stryker said the school is accredited by the ACCS but not by the state, and all of its teachers are certified. The enrollment includes York County students. The school does not operate from June to September and does not provide day care or any after-school care. The students are gone at 3:30 p.m. on school days. Recesses are staggered among the students, generally lasting a total of no more than one hour per day with the current 25 students, but could increase to three hours as enrollment increases up to 144 students. No fundraising events take place on school property.

Mr. Beil asked if there is a procedure to request the Virginia Department of Transportation to prevent traffic cutting through Caran Road to Palace Lane. Mr. Carter said the Greensprings subdivision residents could make such a request. He said he will contact VDOT, however, to get a STOP sign installed.

Mr. Ptasznik suggested that the Greensprings residents contact the Department of Environmental and Development Services about the drainage and mosquito problems.

Mr. Hendricks commended the applicants for the project. He said he preferred the applicant's proposed playground location over the staff's, and would therefore consider reviewing or eliminating Condition 4 of the draft resolution. He believed the existing fence and the distance from a major road would provide adequate buffers and less risk for the children.

Mr. Ptasznik and Ms. White both agreed. Mr. Beil proposed a six-foot privacy fence to buffer the play area.

Mr. Simasek reiterated his concern over the future of the land and the County's loss of control over its use if the property is abandoned in three years. Mr. Hendricks said the County would continue to exercise control through the Zoning Ordinance standards.

Resolution PC02-6

On motion of Ms. White, which carried 4:3 (Messrs. Simasek, Beil and Heavner opposing), the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZM-64-02
TO AMEND THE YORK COUNTY ZONING MAP BY RECLASSIFYING THE
PROPERTY LOCATED AT 116 PALACE LANE FROM CONDITIONAL LB TO LB
WITHOUT CONDITIONS**

WHEREAS, Hugh A. West has submitted Application No. ZM-64-02, which requests the removal of an existing proffered condition limiting the parcel's use to a funeral home by reclassifying an approximately 1.9-acre parcel from conditional LB (Limited Business) to LB without conditions. The property is located at 116 Palace Lane and is further identified as Assessor's Parcel No. 9-11; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of January, 2002, that Application No. ZM-64-02 be, and it is hereby, transmitted to the Board of Supervisors with a recommendation of approval to reclassify an approximately 1.9-acre parcel located at 116 Palace Lane and further identified as Assessor's Parcel No. 9-11 from conditional LB (Limited Business) to LB without conditions.

Mr. Ptasznik asked if the County could waive the requirement for a traffic study, as requested by the school. Mr. Barnett said the study could not be waived because it is ordained in the County Code. Mr. Carter said, while there is a need for some sort of traffic study, the County is willing

to work with the applicant to review its enrollment studies and traffic generation characteristics and how they relate to previous generational analyses.

Ms. White moved adoption of Resolution PC02-7(R), eliminating proposed Condition 4 relating to playground location.

Resolution PC02-7(R)

On motion of Ms. White, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A PRIVATE SCHOOL IN AN EXISTING BUILDING LOCATED AT 116 PALACE LANE

WHEREAS, Providence Classical School has submitted Application No. UP-591-02 requesting a special use permit, pursuant to Section 24.1-306 (Category 5, No. 2(b)) of the York County Zoning Ordinance, to authorize the establishment of a private school in an existing building located at 116 Palace Lane and further identified as Assessor's Parcel No. 9-11; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of January, 2002, that Application No. UP-591-02 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a special use permit, pursuant to Section 24.1-306 (Category 5, No. 2(b)) of the York County Zoning Ordinance, to authorize the establishment of a private school within an existing building on property located at 116 Palace Lane and further identified as Assessor's Parcel No. 9-11, subject to the following conditions:

1. This use permit shall authorize the establishment of a private school within an existing building on property located at 116 Palace Lane and further identified as Assessor's Parcel No. 9-11.
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of any renovation of the existing structure. Said site plan shall identify classroom, office, and assembly space.
3. The private school shall be developed and operated in accordance with the standards set forth in Section 24.1-427, Standards for all educational uses, of the York County Zoning Ordinance.

4. Temporary modular classrooms shall not be permitted on the site.
5. School enrollment shall be limited to a maximum of 111 students. Providence Classical School shall submit, in writing, enrollment data to the Planning Division by October 1 annually. If the school wishes to increase its enrollment above 111 students, an application for an amendment to the special use permit shall be required. A traffic impact analysis shall be required with the application submittal and shall include an analysis of the school-related traffic anticipated to pass through the Bypass Road/Palace Lane, Waller Mill Road/Mooretown Road, and Bypass Road/Waller Mill Road intersections.

In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

PPL
ZM64UP591excr

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Remarks to York County Planning Commission January 9, 2002

Good evening. My name is Rita Stryker and I am a member of the Providence Classical School Board. I am the Chairman of the Building and Grounds Committee.

First let me thank the Planning Commission for the opportunity to express our position at this forum and compliment the York County Planning Division Staff for their able assistance in submitting our special use application. Olivia Wilkinson has made herself readily available to answer all my questions. She has researched information I requested and responded in a timely manner. She has kept me informed of the planning division's recommendation and the rationale behind it. Thank you very much Ms. Wilkinson.

Now let me address the specifics of our application. I will begin by commenting on the intended use of the building and provide you and the residents of Greensprings Neighborhood with some details about our school and its expected growth.

Providence Classical School is in its first year of operation and currently has 25 students enrolled. The pattern of growth experienced by similar classical Christian schools around the country is to double their enrollment in their second and third years and then to plateau or slow their growth. In our case, that would mean an expected enrollment of 50 students next year and 100 students in the 2003-2004 school year.

We have chosen this piece of property because it can accommodate our needs for the next 3 years. At that time, we will reevaluate our needs and make a decision as to future growth and suitability of the existing property. Having been originally built as a Church, the interior space can be easily reconfigured to provide seven or eight classrooms, an assembly or chapel area, and office space. The green space surrounding the property is adequate for a play area and there is ample parking to meet our needs. We are extremely excited to have found this building which seems so ideally designed to meet our needs and we are eager to begin making renovations and building relationships with the surrounding community.

As a first step in being a good neighbor, I took the opportunity to meet with some of the residents on Caran and Waller Mill Lanes and answer their questions. The following concerns were raised during those conversations:

1. Caran Lane is currently being used as a cut-through street for traffic trying to reach the Kmart shopping center and Mooretown Road. The residents do not want to see that traffic increase!
2. There are no stop signs at the intersection of Caran Road and Palace Lane. This is a hazardous situation and additional traffic will increase the likelihood of an accident.
3. Drainage from the Palace Plaza Shopping Center pools at the east end of Caran Lane and is a breeding ground for mosquitoes. Mosquitoes are carriers of many diseases and the residents have been unable to spend time outside. This represents a potential danger to the children that would attend Providence Classical School.

We would like to make the following recommendations to address those concerns:

1. We will set a school policy that families must use Palace Lane to pick-up and drop-off students at the school. To enforce the policy we will issue bumper stickers to all school families, which must be displayed in order to pick up their children. Greensprings residents can identify any families in violation of our policy by the bumper sticker and notify the school of their license plate number. Repeat violators will lose their privileges to attend Providence Classical School. We understand the desire of the residents to protect their neighborhood from unnecessary traffic and do not want to contribute to an existing problem.
2. We agree with the residents that a stop sign needs to be erected at the end of Palace Lane. We will work with York County and the Virginia Department of Transportation to have one installed and investigate additional solutions to minimize the cut-through traffic problem.

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3. Because we do not have first-hand knowledge of the mosquito population, we would like to work with the county and the residents to identify the magnitude of the problem and potential solutions.

On the whole, we feel that a small private school would be a preferable use of the property to many other potential uses permitted by right in a limited business zone. The primary hours for occupancy and traffic are between 8:00 and 3:00 when most neighborhood children are at school and adults are at work. It would be less invasive than other permitted uses such as a Neighborhood Shopping Center, Emergency Care Clinic, A High-rise Office Building, Temporary Construction Workers' Parking, or government uses such as a Post Office or County Jail.

In fact, the limited business zone allows pre-schools, nursery schools and religious schools when operated as a ministry of a church as a matter of right. We fail to see any difference in terms of noise, traffic, or impact to the area between these schools which would be automatically permitted in a LB zone and Providence Classical School.

We are hopeful that the Planning Commission will accept the recommendation of the planning division staff to approve our application. However, I would like to reiterate the concerns expressed in my letter of January 7th regarding three of the conditions being recommended by the staff.

Playground

As noted in my letter, the most appropriate location for the playground is the Northeast side of the building. I have brought for you today, some pictures of the Northeast and Southwest sides of the building. The first page shows the Northeast section of the property, the most protected area for children at play. The building, which is in the shape of a U, forms a natural courtyard on three sides and is out of view from the businesses located on the other three sides of the property. Additionally, there is no public access to this side of the property. The driveway shown in the photo would belong to the school, giving us the ability to restrict its use.

As can be seen in the bottom photo, there are three layers of buffer in existence between this grassy area on the Northeast side of the building and the adjoining residential neighborhood:

- a 25 foot school driveway,
- an eight foot school fence,
- and a fully developed strand of trees.

All of these buffers should help to minimize any playground noise.

The second page depicts the Southwest side of the building, which the planning staff has recommended as the location for the playground. It is directly adjacent to a narrow, poorly maintained gravel road. It is in open view and easily accessed from Palace Lane, The Hampton Inn, Fairfield Industries and any traffic choosing to use the gravel road as a cut through from Palace Lane to Waller Mill Road. We have no control over the traffic on this road and feel very strongly that it would be a dangerous location for a playground.

Secondly, both the recommended cap on enrollment and the request for an extensive traffic analysis have serious financial repercussions to the financial health of our school.

Limited School Enrollment

The planned configuration of the building allows for a maximum of eight classrooms. The school policy is to limit enrollment to 18 students per class, which would limit enrollment to 144 students in the existing facility. Because the existing facility can accommodate at least 144 students, it seems unreasonable to limit the enrollment of the school to anything less without a demonstrated governmental interest. By limiting enrollment, our student teacher ratio will necessarily be decreased resulting in far fewer resources available to the school to pay salaries, rent, utilities, maintenance, curriculum, equipment and insurance. Limiting enrollment of the school to 111, represents a potential annual loss of \$132,000.00 in tuition, our primary source of income. Each student attending Providence Classical School minimizes the burden for local

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governments to provide public education. Please don't negatively impact our bottom line by unnecessarily limiting student enrollment.

Traffic Impact Analysis

I would like to reiterate our request to have the traffic study requirement waived. York County has benefited by numerous studies presented by all the surrounding businesses over the last several years including studies of the intersections cited by staff as pertinent to our application. We suggest that by voluntarily banning our parents from using Caran Road as a means of access to the school that the traffic analyses for the Waller Mill Road/Palace Lane and Waller Mill Road/Mooretown Road become unnecessary. The third intersection listed for analysis, the Palace Road/Bypass Road intersection was recently analyzed and found to be adequate by the Palace Plaza Shops traffic study.

As noted in my letter, the Federal Government has made provisions for local and state government to minimize the impact that zoning laws may have on religious institutions including religious schools with passage of the RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000. We respectfully request that you consider applying that law in waiving the application of zoning ordinance 24.1-251 as it applies to Providence Classical School.

I would now like to turn the podium over to Mike Doucette, our Treasurer, who will present an overview of the financial organization of the school. Reverend Tom Darnell, President of our school board will then present a brief overview of classical education and the benefit to the community in having this education option available to them.